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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fifth session

SUMMARY RECORD OF THE 38th MEETING IN 1990

Held at the Palais des Nations, Geneva,
on Tuesday, 4 December 1990, at 3 p.m.

Chairman: Mr. KOUZNETSOV

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS (agenda item 7)

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Ecuador (E/1986/3/Add.14, E/1988/5/Add.7) (continued)

1. At the invitation of the Chairman, Mr. Santos (Ecuador) resumed his place at the Committee table.

2. Before giving the floor to the representative of the International Labour Organisation, the CHAIRMAN thanked ILO for the reports and information that it regularly submitted to the Committee.

3. Mr. DAO (International Labour Organisation) drew attention to the ILO conventions relevant to the provisions of the Covenant that had been ratified by Ecuador and conveyed the main comments made by the Committee of Experts on their implementation, as contained in the twelfth and thirteenth ILO reports on the progress made in achieving the observance of the provisions of the Covenant.

4. With regard to maternity protection, Ecuador had ratified Convention No. 103, whose scope was very broad, because it applied to women employed in industrial undertakings and in non-industrial and agricultural occupations, including women wage-earners working at home. Not all the provisions of the Convention were applied, but the Committee of Experts hoped that the Government of Ecuador would amend the Labour Code without delay, in order, inter alia, to grant pregnant women maternity leave of 12 weeks (instead of 8 as at present) and financial and medical benefits throughout the period of leave.

5. Ecuador had also ratified Convention No. 107 on the protection and integration of indigenous and tribal populations. Under article 19 of the Convention, the mandatory social security scheme had been extended, by virtue of a decree promulgated on 12 May 1986, to 800,000 wage-earners engaged in agricultural occupations in the Andes mountain chain and the coastal plain.

6. Concerning the protection of children and adolescents employed and at work, Ecuador had only ratified Conventions Nos. 112 and 123 on the minimum age and Conventions Nos. 77, 78, 113 and 124 on medical examination. The Committee of Experts had called for Conventions Nos. 77 and 78 to be applied in all enterprises, including those with fewer than 100 workers.

7. Lastly, in respect of Convention No. 115 on radiation protection, the Committee of Experts had requested information on measures taken to set maximum levels of exposure to radiation for workers under 18 years of age and to prohibit workers under 16 years of age from being assigned to work that exposed them to radiation.

8. The CHAIRMAN requested the members of the Committee to specify the articles to which their questions referred.

9. Mr. MRATCHKOV asked what was the legal status of the Covenant in Ecuadorian law: was it directly applicable or did legislative measures first have to be adopted to give effect to it?

10. Concerning article 10, he sought clarification on the number, make-up and competence of juvenile courts and the procedures used. He also inquired what percentage of marriages ended in divorce and what the current trends were in that area.

11. With regard to article 11, he requested the representative of Ecuador to provide details on the rate of inflation in recent years in his country and on inflationary trends.

12. As to article 12, he asked for information on the geographical distribution of such health services as hospitals, polyclinics and laboratories as well as on the percentage of health care in the private sector.

13. Turning to the other report submitted by Ecuador, namely, on the implementation of articles 13-15 of the Covenant he asked what percentage of children attended secondary school. He also inquired whether primary and secondary schools existed for handicapped children and, if so, how many there were and how many children they could accommodate. Lastly, referring to paragraphs 80 and 81 of the report, he requested clarification on the make-up and nature of the National Science and Technology Council and the financial resources at its disposal. He also inquired whether specialized research institutes existed or whether universities conducted research activities in the various branches of science and technology.

14. Mr. SIMMA said that, unlike many reports submitted to the Committee, the reports of Ecuador did not conceal the difficulties that that country had to face in implementing the provisions of the Covenant. It would, however, have been preferable if the Ecuadorian delegation had provided a greater number of examples to illustrate its figures and percentages. For example, it would have been interesting to see what proportion of the expenses of a family with two or three children was covered by the minimum wage of approximately $50.

15. Concerning article 11 of the Covenant, the Ecuadorian Constitution stated that the State guaranteed, inter alia, the right to housing, but the report pointed out that 70 per cent of rural and urban dwellings were inadequate. He inquired whether the incorporation of that fundamental right in the Constitution had any impact on relevant Government policy. He also wondered whether tenants could be evicted from housing they occupied, whether that happened frequently, whether legislation existed to protect tenants and, if so, whether Ecuadorians had recourse to it and whether such legislation was implemented in practice.

16. Turning to the right to health, he had read that in July 1989, the Ecuadorian Government had prohibited clairvoyants and faith-healers from practising in order to put an end to the deception to which persons seeking treatment fell victim. He asked whether that measure had proved effective or whether it was too soon to say, and whether the prohibition meant that the Government was opposed to natural medicine. Lastly, he took it that, as in many other countries, physicians in Ecuador, once they had finished their training, preferred to set up a practice in large urban centres, where they

had a better chance of earning a decent living. He inquired whether a system existed in Ecuador requiring newly graduated doctors to work for a certain period in rural areas and if so, how many physicians remained in those areas once that period had elapsed. He also asked whether the Government had taken any measures to encourage doctors to continue practising in rural areas.

17. With regard to the right to education, it was his understanding that the Government had taken measures to ensure that children who were obliged to work could continue their schooling. It would appear that legislation allowed such juveniles to take two hours a day off in order to go to school. He inquired how many children availed themselves of that right and whether mechanisms existed for enforcing that provision in rural areas.

18. Mr. KONATE said that, when a developing country reported on the implementation of economic, social and cultural rights, it invariably referred to the economic difficulties it was facing. Yet, by ratifying the Covenant, States undertook to take the necessary measures to put it into effect. Although they could draw attention to problems that had arisen in implementing those provisions, they must not use them as a pretext for non-compliance. The Ecuadorian delegation had not given members of the Committee the precise answers expected. In particular, it had replied too perfunctorily to the questions concerning implementation of articles 13-15 of the Covenant, to which he would like to return.

19. Concerning the right to health, he requested clarification as to the causes of infant mortality and the efforts undertaken by the Government to combat infantile diseases. The number of health care centres had increased, but the poorest segments of the population did not take advantage of them, because they were unaware of their usefulness. He inquired whether the Government had taken measures to inform and educate the population so that such health care centres did not become mere tourist attractions.

20. With regard to protection for children, the Ecuadorian Constitution went beyond the Convention on the Rights of the Child, because it stipulated that the State safeguarded the child from the time of conception.

21. Referring to paragraph 30 of the report on the implementation of articles 10-12 of the Covenant, he requested an assurance that Ecuador would bring its legislation on maternity leave into line with international standards. Two weeks of antenatal leave was much too short a period.

22. In respect of the right to housing, he did not understand why the majority of the population did not benefit from the right of ownership when it was the State that distributed the land. He inquired which segment of the population was most deprived in that area.

23. Lastly, referring to article 15 of the Covenant, he asked why a braindrain had been taking place and what measures had been taken to counteract it.

24. The CHAIRMAN asked the members of the Committee to be as brief as possible in order to facilitate the task of the delegation of Ecuador in responding to questions.

25. Mr. GLAIEL said that the representatives of Ecuador had been unable to provide much information on the second report because they had not had enough time.

26. He inquired how the provisions of the Covenant had been integrated into Ecuadorian legislation, how they were guaranteed and how they were implemented.

27. Turning to juvenile delinquency, he asked what the State was doing to combat the problem, whether young offenders belonged to a particular ethnic or social group and why young people felt compelled to leave the rural areas for the cities. That exodus created a housing problem, and he inquired whether there were homeless persons in Ecuador.

28. Concerning the implementation of articles 13-15 of the Covenant, he asked about the conditions for granting scholarships. Lastly, the Ecuadorian delegation having often referred to foreigners in its replies, he inquired why so many foreigners lived in Ecuador and what the principal nationalities were.

29. Mr. FOFANA, referring to a report by the International Federation of Human Rights (FIDH) on economic, social and cultural rights in Ecuador, said that although that document gave a description of the situation similar to that contained in the two reports submitted by the State party, it differed in that it highlighted the degree of responsibility borne by the Ecuadorian authorities for that state of affairs. In that context, FIDH directed its main criticism at the implementation of a debt policy begun by the military dictatorship that had held power from 1972 to 1979 and pursued by the constitutional Government for the benefit of a small number of businessmen and property owners. The debt policy had led the authorities to implement a structural adjustment programme whose principal goal was to satisfy the interests of creditors but which had not been accompanied by adequate measures to cushion its social impact (high employment, for example).

30. In order to underscore the responsibility of the Ecuadorian authorities, he cited a number of concrete examples taken from the FIDH report, the first in connection with articles 10 (protection of the family, of mothers and of children) and 12 (right to physical and mental health) of the Covenant. The report criticized the tendency of employers to shirk their obligation to make contributions to the Institute of Social Security. That situation, aggravated by the loans granted to the State by the Institute, had led to a decline in the financial resources of that body, thereby jeopardizing the right of thousands of citizens to appropriate health care and a suitable retirement.

31. Concerning the rights set forth in articles 13-15 of the Covenant, the FIDH report stated, as did the report of the State party, that education in Ecuador was of poor quality, but it also shed light on the causes: inadequate teacher-training, lack of qualified personnel and of appropriate and up-to-date curricula and poor geographical distribution of schools, which prevented a large part of the population, particularly in rural areas, from enjoying the right to education.

32. In conclusion, he asked the Ecuadorian delegation to respond to the information that he had just provided.

33. Mr. TEXIER, referring to article 10 of the Covenant, said that Ecuadorian legislation on natural children was much more advanced than in other countries, because it granted illegitimate and legitimate children the same rights and because no statement had to be made regarding the type of filiation when a birth was registered (see E/1986/3/Add.14, para. 19).

34. Also with reference to article 10, he requested confirmation that divorce by mutual consent existed in Ecuador and wondered whether, in the event of the dissolution of a marriage, parental authority could still be exercised by both parents or whether, divorce being based on the principle of fault, only one parent retained both custody and responsibility for educating the child.

35. He also asked whether birth control existed in Ecuador and, if so, in what form, whether or not the State encouraged it and whether or not abortion was legal.

36. Addressing the serious problem of abandoned children and adolescents, which other Latin American countries, such as Colombia, were also experiencing, he inquired whether Ecuador was also facing that phenomenon and, if so, what measures had been taken by the State to combat it. Similarly, he asked whether there had been many adoptions of abandoned children, in particular international adoptions.

37. In respect of article 11 of the Covenant, in particular the right to housing, he cited figures taken from a document entitled "La vivienda en el Ecuador" (Housing in Ecuador), according to which, in a country with 10 million inhabitants, 1.3 million of the 1.9 million housing units were inadequate, 7 Ecuadorian families out of 10 did not have adequate housing and 98 per cent of rural dwellings were of poor quality. He asked the Ecuadorian delegation whether those figures seemed accurate and what the Government was doing to remedy the situation. Referring to a passage of the Ecuadorian Constitution quoted in the document, from which it emerged that the municipalities could, in conformity with the law, take expropriation measures and set aside areas to ensure the right to housing, he asked whether initiatives had been taken at the regional and, above all, the municipal level to improve the housing situation.

38. With regard to article 12 of the Covenant on the right to health, he inquired what criteria were used to define the high-risk groups referred to in paragraph 110 of the report (E/1986/3/Add.14). He also asked how widespread AIDS currently was in Ecuador and what measures had been taken to combat it.

39. Turning to the part of the report on articles 13-15 of the Covenant (E/1988/5/Add.7), incorporating in that document some of the statistical tables communicated to the Secretariat would have made it easier to understand. With regard to article 13 of the Covenant, it was not clear whether primary or secondary education was bilingual (Spanish and Quechua or another Indian language) in certain areas of Ecuador, in particular in the Andean region, and he asked for clarification on that point.

40. Mr. MUTERAHEJURU, while commending the representative of Ecuador for his frankness, considered that the replies to the Committee's questions about the general framework for the implementation of the Covenant were not very satisfactory. He would have preferred to have had more information on the

exact numerical size of the indigenous population as a percentage of Ecuador's overall population so as to have an idea of the socio-political impact of that group of citizens.

41. Concerning article 10 of the Covenant, he would give close attention to the replies to the questions of the previous speakers, in particular concerning divorce, and asked for more details on the grounds for the annulment of marriage referred to in paragraph 25 of the report (E/1986/3/Add.14). When such grounds had been dissimulated and had not been revealed until after the marriage, he wondered whether the marriage was then annulled or whether that constituted grounds for divorce. On the same subject, he asked whether only the abduction of a woman was conceivable or whether it was also possible to imagine the abduction of a man.

42. With regard to articles 13-15 of the Covenant, he requested a breakdown by sex of the illiteracy rate and the school attendance rate.

43. In respect of article 15, he inquired whether there was interaction between the culture of the indigenous population and that of the other segments of the population and whether those different cultures were integrated or whether they were independent of one another.

44. Mrs. JIMENEZ BUTRAGUEÑO said it would be useful to receive additional written information in reply to the questions put forward in writing by the Committee relating to the implementation of articles 13-15 of the Covenant.

45. With regard to article 10 of the Covenant, the reply to the question on the percentage of the population covered by social security indicated that the proportion had increased markedly between 1980 and 1989. She would like to know, in that connection, whether civil servants were included in the figures quoted by the Ecuadorian delegation or whether they were covered by a separate social security scheme.

46. Referring to the observation made by Mr. Konate to the effect that a number of population groups might, for cultural reasons, lack access to certain services, she wished to know whether information campaigns had been undertaken, chiefly in the area of family planning, to raise people's awareness of the responsibilities implicit in having children, namely, of the need to provide them with suitable nourishment, educate them and care for them. She also had the impression that, although abortion was illegal and thus deemed an offence, the courts were nevertheless more tolerant in cases resulting from rape or where the mother's health was at risk. She wondered, therefore, whether the Ecuadorian Government had thought of relaxing the legislation and authorizing voluntary termination of pregnancy - an expression which she personally preferred to "abortion" - in the two circumstances to which she had referred as well as when there was a risk that the child might suffer a congenital defect.

47. With regard to article 11, and more particularly the right to housing, she would like to know whether, in view of the fall in wages and living standards, persons who found that they would no longer be able to afford to pay off a home which they were in the process of acquiring could benefit from a special housing credit in that regard.

48. Lastly, with regard to article 12 of the Covenant, concerning the right to physical and mental health, she noted that, aside from the faith-healers and clairvoyants mentioned by Mr. Simma, a form of valid traditional medicine existed founded on medicinal herbs and a healthy diet; she wondered whether a revival of that type of medicine was occurring in Ecuador.

49. Mr. ALVAREZ VITA, raising a few initial questions of a general nature, asked what criteria (race, language spoken, dress, way of life) were applied to determine whether a person belonged to an indigenous group in Ecuador. In that connection, he observed that it often happened, in some Latin American countries, that a person might be indigenous in terms of race but was not considered so in other respects.

50. Since the representative of Ecuador had stressed how much the country's development stemmed from the internal peace it enjoyed, compared to other countries of the region, he wondered whether that lack of violence could be attributed to the fact that Ecuador was the sole Andean country with no tradition of using coca leaves, and, consequently, of cocaine manufacture and drug trafficking. In that regard, he would like to have details on the movement known as "Alfaro Vive" or "Alfaro Vive Carajo".

51. Recalling the international obligations which the Covenant imposed on States parties, he asked to what extent Ecuador had received aid from the developed countries to overcome its difficulties, and what proportion of the country's total development effort that aid represented.

52. Referring to article 10 of the Covenant and citing article 23 of the Ecuadorian Constitution, according to which the State safeguarded the child from the time of conception (E/1986/3/Add.14, para. 19), he asked how the exceptions granted in certain cases to the legislation which banned abortion could be reconciled with such safeguarding of the child from the time of conception, a safeguard also provided by the American Convention on Human Rights (Pact of San José) and protected, to some degree, by article 1 of the Convention on the Rights of the Child. Although that article, it was true, simply indicated that a child meant every human being below the age of 18 years, without specifying from what moment the age began, it was possible, considering the highly controversial wording of the preamble to the Declaration of the Rights of the Child, to derive from it an interpretation along the lines of the said provisions of article 23 of the Ecuadorian Constitution. Since, in Ecuadorian law, international treaties took precedence over national legislation, his impression was that a contradiction existed between the international convention and the Ecuadorian Constitution on the one hand and, on the other, court rulings which granted exceptions to the law on abortion.

53. He also wondered what form birth control took and whether the civil and religious authorities were at odds on that topic.

54. Since the State party's report did not indicate whether parental leave was available to a mother in order to care for a child after its birth, he asked whether leave of that sort existed, how long it lasted and whether the father, too, could avail himself of it if necessary. In general, the law failed to cover the case of abandoned fathers who remained alone with their children, and there was a loophole to be filled in that regard.

55. He noted with satisfaction that Ecuador had acceded to the Convention on the Rights of the Child and that the people, including children, had been consulted in that connection. He wished to know, firstly, how Ecuadorian legislation as a whole had been aligned with the text of the Convention and, secondly, whether the opportunity was likewise offered to children to put forward their views on economic, social and cultural rights, as provided in the Convention.

56. Lastly, with reference to articles 13-15 of the Covenant, he observed that the Ecuadorian Constitution was one of the few constitutions which so firmly set forth the principle of freedom of education. However, having read the information provided in paragraphs 20 and 21 of the report by Ecuador (E/1988/5/Add.7) concerning the secular nature of official education, which thereby ensured that the education provided by the State and other public bodies neither promoted nor attacked any particular religion, he wondered whether there might be a contradiction between that principle and freedom of education; in other words, he wondered whether a restriction might possibly arise on the freedom of a secondary-school or university teacher to express views about some religion.

57. Ms. TAYA asked what internal machinery had been set up in Ecuador to utilize official development assistance or benefit from international co-operation, and what steps were being taken to ascertain and take into consideration local people's needs and views.

58. Mr. NENEMAN noted that, despite Ecuador's economic backwardness and unfavourable terms of trade, the country had made considerable strides, in certain spheres at least, and particularly in education and child protection. For example, infant mortality, although still fairly high, was declining rapidly; according to the representative of Ecuador, the rate currently stood at 40 deaths per thousand live births, whereas it had still been 70 per thousand in 1986. On that subject, he wondered what was the percentage of children brought into the world without the assistance of a doctor or midwife. He also noted that abortion was forbidden by law in Ecuador; according to that country's representative, terminations of pregnancy carried out in difficult and dangerous conditions had become only more frequent - which was not the case in countries where abortion was legally possible in certain conditions, for the simple reason that, at the same time, sex education and contraceptive measures in those countries were widespread as a general rule. He wondered what the situation was in Ecuador: whether the population had adequate access to various means of contraception and knew how to use them, or whether such measures were likewise illegal or strongly disapproved of by the Church.

59. Turning to the implementation of article 15 of the Covenant, he asked to what extent the information and communication media helped to make known the riches of local indigenous cultures, and whether they were provided with financial or other assistance for that purpose. He wondered whether the museum which housed pre-Columbian art benefited from UNESCO support, and whether exhibits were displayed in accordance with modern techniques. Noting that an Act of 1979 guaranteed "freedom for scientific and technological activities, in accordance with legislation" (E/1988/5/Add.7, para. 79), he wondered whether Ecuadorian legislation in any way restricted the freedom of those activities and, if so, how.

60. Mr. RATTRAY said that the Ecuadorian Constitution provided many safeguards for the exercise of the rights set forth in the Covenant, but that a gap existed between those promises and reality, since, according to the representative of Ecuador, unless the country could reverse the current sharp social decline and benefit from development assistance, it could no longer progress along the road to economic, social and cultural development. The question was whether, given the current world structures, there was really any way to mobilize the requisite international co-operation in order to close the gap meaningfully and make satisfactory economic, social and cultural progress within a reasonable time. Therein lay a problem which beset many developing countries and which the international community had an imperative duty to resolve.

61. Turning to more immediate concerns, he wondered whether the Ecuadorian Constitution gave individuals the right to go to law to obtain the application of constitutional safeguards and, if so, whether that right had in fact been exercised in the courts.

62. He noted that in view, inter alia, of Ecuador's huge external debt, the social sector's share in the State budget had declined from 43.7 per cent to 30.7 per cent in the space of six years, from 1980 to 1986 (E/1986/3/Add.14, para. 52). That being so, he wondered whether the Government had been able to continue to allocate to education not less than 30 per cent of its current revenue, as provided by article 71 of the Constitution. Significant progress had been achieved in the sphere of education in Ecuador, but the school drop-out rate, particularly in primary education, remained high; he wondered whether that phenomenon was explained by the need for children and adolescents to seek work in order to provide for their needs or by problems of a non-economic nature and, if the latter, what those problems were. He also wondered what the unemployment rate was among those holding secondary-school and university qualifications. There was also the question of what measures the Government had taken to overcome the housing problems faced particularly by the marginalized sectors of Ecuadorian society and to provide such persons with access to housing during the 1990s and beyond. Lastly, with regard to the environment, a problem which affected many developing countries, he asked how the Ecuadorian Government intended to improve the living conditions of the people while striving to provide the country with lasting, environmentally sound development.

63. Mr. ALSTON gave further details on a question raised by several experts and referred to briefly in the report by Ecuador, namely, that of the rights of the child before birth. It was important to avoid any misunderstanding in that regard. With the exception of the American Convention on Human Rights, international instruments remained uncommitted on the question. The drafters of the International Covenant on Civil and Political Rights had deliberately left the matter open; accordingly, the Human Rights Committee had not questioned States parties on that point or addressed the matter specifically in its general comments on article 6 and the right to life. A number of proposals aimed at recognizing specifically the rights of the child prior to birth had been submitted during the negotiations on the Convention on the Rights of the Child, but none of them had been adopted, and that instrument did no more than repeat - as did the International Covenant on Economic, Social and Cultural Rights, in a way - the idea expressed in the 1959 Declaration of the Rights of the Child, to the effect that the child

needed special safeguards and care, before as well as after birth. At the regional level, the members of the Inter-American Commission on Human Rights had failed to arrive at a definite understanding on how to interpret the provision in the American Convention which recognized the right to life from conception. With regard to the European Convention, neither the Commission nor the Court had wished to pronounce on the question. Consequently, it was quite clear that international law left it to each State to determine its position in that regard; however, that did not release States parties to the International Covenant on Economic, Social and Cultural Rights from the obligation to accord the mother special protection and provide her with all possible antenatal care.

64. Mr. WIMER ZAMBRANO recalled that, for many years, efforts had been made throughout Latin America to impose the use of Spanish to the exclusion of any other language, whether in everyday life, at school or in the courts. In the recent past there had been an effort to reassert the rights of indigenous languages, both in education and in the administration of justice. He would like to know what policy the Ecuadorian Government followed in regard to the use of the various indigenous languages spoken in Ecuador.

65. The CHAIRMAN invited the representative of the World Health Organization to take the floor.

66. Mrs. PINET (World Health Organization) said that several experts had raised the question of infant mortality; she quoted some statistics to clarify the world situation in that regard. According to evaluations made as part of the strategy of health for all by the year 2000, the figure still stood at 141 deaths per thousand live births in the least developed countries, 79 per thousand in the more advanced developing countries and 13 per thousand in the developed countries. Despite the progress recorded by Governments in that regard, it looked as though, by the year 2000, the average infant mortality rate would still be around 60 per thousand in the developing countries. Those figures would perhaps provide the Committee with a better picture of the efforts which Ecuador had had to make to achieve the current rate of 40 deaths per thousand live births.

67. Mr. SANTOS (Ecuador) said that he would prefer to postpone his statement until the next meeting, in order that he could reply more fully to the many questions raised by the members of the Committee.

68. Mr. Santos (Ecuador) withdrew.

Costa Rica (E/1990/5/Add.3)

69. At the invitation of the Chairman, Mr. Rhenan Segura (Costa Rica) took a place at the Committee table.

70. Mr. RHENAN SEGURA (Costa Rica) reviewed relevant developments which had taken place in Costa Rica since the report before the Committee had been drawn up. Important legislative measures had been taken to promote social equality between men and women; in accordance with a law of 1990, political parties would have to amend their articles in order to promote the participation of women in the activities of their governing bodies as members, or in national elections as deputies; any discriminatory measure in the exercise of public

duties would have to be abolished. In future, applications for social housing would have to be made in the name of both partners or in that of the woman living in free union. That law also set up a network of child-care centres for the children of working mothers, and provided that any complaint relating to sexual offences must be referred directly to the judicial authorities, in order that they could take rapid action in such cases. It also banned the use in education of texts which attributed different roles in society to men and women. The law further provided for the setting up of a special department for the protection of human rights, whose tasks included the safeguarding of women. It also revised a number of provisions of national legislation. Amendments to the family code were aimed at preventing the mortgaging of the family home without the consent of both partners, and at regulating lawsuits which might be brought by creditors against only one of the partners. Henceforth, the Labour Code would prohibit the dismissal of a pregnant woman, except for serious professional misconduct, without prior authorization from the Ministry of Labour. A number of amendments had been made to the Civil Code in order to regularize free union and legalize joint management, by parents, of a child's property. Under the Code of Criminal Procedure, the court could henceforth order a de facto or de jure partner accused of a sexual offence or bodily harm against his female partner to leave the home and pay alimony to the woman.

71. As the Committee could note, the law on equality provided a comprehensive programme of action aimed at abolishing the various forms of social discrimination against women which existed in Costa Rica. It was still too soon to measure the practical effects of those provisions.

72. A further fact, while adding nothing new with regard to the exercise of the rights set forth in the Covenant, nevertheless confirmed the country's democratic practices: on 4 February 1990, citizens had gone to the polls to elect the President and Vice-Presidents, deputies to the Legislative Assembly and municipal councillors of the country's 80 communes. Since 1953, 10 general elections had been held, and on no occasion had there been any trouble or any allegations about falsification of results. Transfer of power had always taken place without any difficulty. Such had been the case also during the elections held the previous February. Costa Rica thus had a system which, as a result of a set of standards and a number of institutions, ensured that citizens could exercise their rights peacefully and democratically. It should be added that the new Government had instituted two new types of subsidies in order to enhance the welfare of all the country's inhabitants: the first consisted of food aid, to which families or unmarried mothers whose income was equal to or less than that of an unskilled worker were entitled; the second was housing assistance, the amount of which - up to a maximum of 450,000 colones, roughly equal to 500 dollars - varied according to family incomes, which must not exceed four times the wage of an unskilled building worker.

73. Turning to the questions appearing under the heading "General framework for the implementation of the Covenant", he pointed out, with regard to item 1, "The country's political and socio-economic features", that Costa Rica's political régime was democratic, free and independent. In order to safeguard the observance of fundamental human rights, article 9 of the country's political Constitution established, in addition to the three powers, legislative, executive and judiciary, an independent supreme election

tribunal, which was entrusted with organizing the various activities relating to elections and supervising their orderly execution, in addition to carrying out any other task conferred on it by the country's Constitution and laws.

74. The President of the Republic was elected every four years by direct suffrage and exercised the executive power jointly with the Ministers. The Legislative Assembly was composed of 57 elected deputies. A broad range of political parties of various tendencies was represented there - the Social Democrat Party, the main opposition group, the Socialist Party, the Communist Party, the Christian Democrat Party currently in power, etc. Deputies were not accountable for the views they expressed in the Assembly and enjoyed, while it was sitting, immunity from civil prosecution unless the Assembly withdrew that immunity and the party concerned consented to the proceedings.

75. The State contributed to the funding of political campaigns in order to prevent a situation in which only the powerful and wealthy parties were able to participate in elections. The amount of the electoral subsidy depended on the number of votes obtained by each political party in the elections.

76. The judicial power was exercised by the Supreme Court of Justice and other courts established by law. The Supreme Court was composed of 25 judges who were elected by the Legislative Assembly for a period of eight years and whose term of office could be renewed.

77. The Political Constitution also provided for the so-called "municipal" régime. Under its article 169, local interests and services were managed by the municipality, a deliberative body composed of elected municipal councillors and an executive official designated by law.

78. With regard to the socio-economic characteristics of Costa Rica, he said that in 1989, GDP had risen by 3.5 per cent, primarily as a result of an increase in non-traditional exports. The national territory covered 5.1 million hectares, of which 40.2 per cent were devoted to stock breeding and agriculture. For the past few years, small farms had continued to decrease in size, which indicated an increase in proletarianization. As a result of the region's economic and political situation, an increasing number of families had become impoverished, particularly in the rural areas. To fight against that impoverishment, the Government was taking all kinds of measures in the fields of education, health, food, vocational training and housing.

79. Referring to the composition of the population, he said that Costa Rica had 2.6 million inhabitants, of whom 9.5 per cent were of African origin and lived throughout the country but primarily in the capital; there were 4,500 indigenous persons found mainly in the north and the south-east and along the Panamanian border. The Parliament was studying a bill with a view to registering the Indians and distributing identity documents to all indigenous persons. That bill, prepared by officials of the registry office and representatives of the National Commission for Indigenous Affairs, should make it possible for that segment of the population to accelerate its development and enjoy special benefits. Article 33 of the Constitution provided that all Costa Ricans were equal before the law and could not be subjected to discrimination contrary to human dignity. Article 1 of the Labour Code prohibited discrimination in employment, and article 371 of the

Penal Code provided for sanctions, including suspension, where officials or executives in the public or private sector were guilty of discrimination on the grounds of race, sex, age, religion, family situation, political opinion, social origin or economic situation. Article 373 of the Code provided for the penalty of imprisonment where attempts were made to destroy human groups. In Costa Rica, no segment of society was subjected to discrimination. All persons had an equal opportunity to exercise their rights and were equal before the law. Article 50 of the Constitution called on the State to strive for the well-being of all by stimulating production and ensuring the proper distribution of wealth.

80. The number of elderly persons was growing at the same rate as that of the population as whole; at the present time they represented 52 per cent of the population. According to estimates, their number would increase by 7.4 per cent by the year 2000 because of the reduction in the birth rate and of longer life expectancy. Elderly persons lived from the fruit of their labour and the retirement pensions paid to them by social security agencies. Those pensions were very modest and frequently did not suffice to meet basic needs. Nor could the elderly pay for their stay in residences specially built for them. The Government was currently studying special aid programmes.

81. Replying to the written question on the proportion of the State's general budget allocated to social expenditure, he said that the credits earmarked for education represented 5.6 per cent of the national budget, and that those devoted to health constituted 5.8 per cent, to the Labour and Social Welfare Office 3.2 per cent and to the Ministry of Culture 1.5 per cent.

82. With regard to the number of aliens and refugees, Costa Rica, respecting one of the oldest traditions and in accordance with article 31 of its Constitution, granted asylum to any person who was expelled from his country for political reasons or who was likely to be subjected to persecution if he returned there. At the present time, 25,000 persons had been recognized as refugees and 18,900 had applied for that status. Among those benefiting from refugee status, 3,500 came from El Salvador, 2,500 from Nicaragua and Cuba, and a small number from other Latin American countries. Fifty thousand to 175,000 displaced aliens were settled in the southern and central parts of the country.

83. The Government made a distinction between displaced persons and refugees. All refugees had a right to education, security and employment; they received advice in the legal field and in that of housing and were given personal effects and clothing. However, the Government helped displaced persons only if they were vulnerable. It paid subsidies and provided advice to the elderly, mothers, young children, and the handicapped and promoted their reintegration in the employment world. With regard to refugees, the Government endeavoured to facilitate the repatriation of all those who were without papers. Believing as it did that voluntary repatriation represented the best solution, it had set up, together with the Office of the United Nations High Commissioner for Refugees, a tripartite co-ordination committee. However, for the numerous refugees without identity papers who did not wish to be repatriated either in the immediate future or subsequently, Costa Rica collaborated with the international community in local integration projects which took account of the situation in the labour market and the needs of those concerned. Furthermore, the Costa Rican Government had

undertaken to define the characteristics of a future programme for controlling immigration which would promote integration into the labour market, and it was carrying out a project for the economic reintegration of refugees through training and the creation of special jobs, a project designed to promote social justice, health and education for all, and housing projects for those who had the greatest difficulty in obtaining accommodation.

84. Costa Rica had acceded to the 1959 Convention relating to the Status of Refugees and the 1967 Protocol, it collaborated actively with the Office of the United Nations High Commissioner for Refugees, and it had played, in Central America, an important role recognized by numerous international organizations.

85. He then described the principal obstacles encountered by the Costa Rican Government in its efforts to ensure respect for the rights set forth in the Covenant. Under article 7 of the Constitution, duly ratified international conventions and treaties took precedence over national legislation. The rights set forth in the Covenant were therefore guaranteed in Costa Rica. It was in Costa Rica's own interest that those rights should be respected. The 1871 Constitution, which had remained in force for three quarters of a century, had already provided for a large number of institutions and procedures which guaranteed the social and economic rights of Costa Ricans. In addition, the 1949 Constitution, which was still in force, had done away with the army as a permanent institution, and the financial resources released as a result had been allocated to social fields, to education and to health. Costa Rica had thus been able to achieve a literacy rate of 90 per cent, to extend the benefit of social security to 94 per cent of its population and to obtain a marked increase in life expectancy and a substantial reduction in the infant mortality rate, which was currently one of the lowest in the world.

86. Despite those achievements, recognized by numerous international organizations, Costa Rica was experiencing a difficult economic situation, although one which was less serious than in other countries in the region. The rate of inflation varied between 18 and 20 per cent, and that of unemployment between 12 and 14 per cent. The proportion of poor families was increasing and had reached 38 per cent. The external debt service absorbed 27 per cent of GDP. Despite generally satisfactory social indicators, the economic crisis in Latin America had hampered Costa Rica's development in the 1980s. Nearly half of the national budget was allocated to social programmes, but per capita social expenditure had decreased in the past few years. Although the birth rate had declined in the 1970s, Costa Rica continued to have a high population growth which would make it necessary to satisfy an increased demand for services in the 1990s. Budgetary restrictions would not enable it to promote social justice easily. Education expenditure had decreased but the quality of primary education had improved. The Government intended to increase the funds allocated to the salaries and pensions of teachers, particularly in primary schools, as well as its assistance to needy families, and to provide subsidies to universities. It would intensify the co-ordination and rationalization of the Ministry of Health's programmes and give an important place to a food programme centred on basic needs and a school meals programme. It would endeavour to improve the social security system, to increase the amount of pensions, and to improve family planning services.

87. With regard to international co-operation and assistance received from the United Nations and other international or regional organizations, he could not provide precise and detailed figures but stressed that Costa Rica received co-operation primarily from the Office of the United Nations High Commissioner for Refugees, who executed his programmes under the supervision of the Government.

88. On the subject of the standards which had been drawn up with a view to ensuring the implementation of the Covenant in Costa Rica, his country had been led to promulgate the Act on the Promotion of the Equality of Women and Men and to set up a body to monitor respect for the rights of women as well as another to monitor respect for the rights of children. In addition, there was talk of establishing an office of ombudsman who would ensure respect for the interests and rights of all citizens.

89. Women, who constituted 50.4 per cent of the population of Costa Rica, were in a very unequal situation in the labour market. They represented scarcely one quarter of the economically active population and had an activity rate of 18.03 per cent, whereas the activity rate of men was 52.2 per cent. Only four out of 10 women participated in the country's economic life, whereas the ratio was three out of four for men. It had been noted that, while the primary sector accounted for 26.9 per cent and the secondary sector for 28.6 per cent of the total number of jobs held by women and men, only 5.4 per cent of economically active women worked in the primary sector, as against 23.3 per cent in the secondary sector and 71.6 per cent - and thus the great majority - in the tertiary sector.

90. In Costa Rica, unemployment had been particularly serious in the 1980s, when it had affected 21.4 per cent of the economically active population. Since then, a spectacular recovery had occurred and in July 1988, 14.3 per cent of the population had been unemployed. At the present time, 6.9 per cent of the population was officially unemployed, 5.9 per cent was clearly underemployed, and 5.5 per cent was less obviously underemployed. It was rural women who received the lowest wages; women in urban areas were less disadvantaged than men in the countryside. As a result of the crisis, the average wages of women, which had constituted 90 per cent of those of men in 1980, had represented only 84 per cent of the wages earned by men in 1983 but had once again amounted to 89 per cent of men's wages in 1988. Only 17.54 per cent of households had a woman at their head, but that figure was probably due to the fact that in Costa Rica the man was usually considered to be the head of the family unless the woman had no husband or partner.

91. The Act on the Promotion of the Equality of Women and Men had made it necessary for parties to amend their statutes in order to eliminate discrimination from political life and to induce women to participate in elections, to join parties, to be represented in their bodies, and to take part in political life as a whole. At the present time, two women were ministers and four were deputy ministers and three ambassadorial posts were held by women. In the Legislative Assembly, one vice-president and seven deputies were women. There was only one woman among the 25 judges of the Supreme Court.

ORGANIZATION OF WORK (agenda item 4) (continued)

92. The CHAIRMAN informed members of the Committee that the report by Mr. Simma, the English version of which had already been circulated, was now available in English, French and Russian (document E/C.12/1990/CRP.3).

93. Mr. ALSTON recalled that, the previous week, the Committee had decided to consider the draft guidelines with a view to making general recommendations to Mr. Simma and adopting his report before the end of the session.

94. Mrs. JIMENEZ BUTRAGUEÑO appealed to the members of the Committee to make only minor changes to the draft in order to avoid postponing the adoption of the guidelines by one year and to transmit any major changes in writing.

The meeting rose at 6 p.m.